

AMENDMENTS TO LB 1226

(Amendments to Standing Committee amendments, AM2578)

Introduced by Beutler, 28

1 1. Insert the following new section:

2 Sec. 31. (1) The Director of Natural Resources shall
3 establish and collect a contingency deposit as provided in this
4 section. The contingency deposit shall be collected commencing in
5 2009.

6 (2)(a) The contingency deposit shall be collected on
7 irrigated real property in natural resources districts that have
8 land area subject to the provisions of an interstate water compact
9 or decree for which the State of Nebraska is an upstream state on
10 a per-acre basis and on municipal water service in such natural
11 resources districts on a per-resident basis in amounts determined
12 by the director under subsection (3) of this section.

13 (b) The contingency deposit collected on irrigated real
14 property shall be included by the county on the property tax
15 statement provided for in section 77-1701. County assessors and
16 county treasurers shall provide access to property information and
17 assistance to the Department of Natural Resources for purposes of
18 calculating and collecting the contingency deposit. The department
19 shall provide each county with land subject to the contingency
20 deposit the information necessary to include the contingency
21 deposits on property tax statements by October 15. County
22 treasurers shall remit the amounts collected by December 31, less

1 a three-percent collection fee, to the State Treasurer for credit
2 to the Republican River Compact Contingency Deposit Fund. County
3 treasurers shall have no obligation to take any legal action to
4 enforce collection. Such action may be brought by or on behalf of
5 the department. Each county treasurer shall annually provide the
6 department a list of the amounts uncollected along with the names
7 and addresses of those property owners. The county shall not be
8 liable for such uncollected amounts. The contingency deposit shall
9 be due on March 1 of the year following imposition and delinquent
10 on September 1 of such year. Delinquent amounts shall have a
11 penalty of twenty-five percent of the contingency deposit due added
12 to the amount due when payment is made.

13 (c) The contingency deposit collected on municipal water
14 service shall be based on the number of residents in the
15 municipality according to the most recent federal decennial census.
16 Municipalities shall remit the amounts to the State Treasurer for
17 credit to the Republican River Compact Contingency Deposit Fund by
18 December 31 of the year following imposition. A municipality may
19 impose a surcharge for water service for this purpose.

20 (3) The Department of Natural Resources, after
21 consultation with each natural resources district that has land
22 area subject to the provisions of an interstate water compact
23 or decree for which the State of Nebraska is an upstream state,
24 shall establish criteria for determining whether the streamflow
25 depletions caused by withdrawal of ground water in such districts
26 exceeds the amount of depletion that is permissible if the state
27 is to remain in compliance with the interstate water compact

1 or decree involved. Beginning in 2009, the department shall
2 determine for such districts whether withdrawals in previous
3 years from water wells located in the land area subject to the
4 interstate water compact or decree caused streamflow depletions
5 in the immediately preceding year that were in excess of the
6 permissible amount of depletion for that district in that year. If
7 those depletions exceeded that permissible amount, the department
8 shall determine a dollar amount that the department concludes
9 would likely be adequate to cover any damages for which the
10 state could be held liable because of noncompliance with the
11 interstate water compact or decree to the extent caused by such
12 excess depletion. The department shall set the contingency deposit
13 amounts to recover that dollar amount of damages. The contingency
14 deposit per irrigated acre shall not exceed three dollars. In
15 setting the contingency deposit amounts per irrigated acre and
16 per municipal resident, the director shall estimate the total
17 annual water use for irrigation and municipal purposes in natural
18 resources districts that have land area subject to the provisions
19 of an interstate water compact or decree for which the State of
20 Nebraska is an upstream state and determine the portions of such
21 total use for irrigation purposes and for municipal purposes.
22 Each contingency deposit amount set by the director shall reflect
23 those portions of total use so that the amounts collected on
24 irrigated acres and from municipalities are approximately the same
25 portions of the total use. If the contingency deposit amounts
26 set at the maximum rates permitted in this section would not
27 produce sufficient funds to pay the damage amount determined by

1 the department, the contingency deposit amounts shall be set at
2 the maximum rates. Natural resources districts that have land
3 area subject to the provisions of an interstate water compact or
4 decree for which the State of Nebraska is an upstream state shall
5 provide information requested by the department for purposes of
6 administration of the contingency deposits by May 1.

7 (4) The Republican River Compact Contingency Deposit Fund
8 is created. The fund shall be used to make possible future payments
9 to the State of Kansas for overuse of water pursuant to the
10 Republican River Basin settlement and the Republican River Compact
11 and for administrative costs of the Department of Natural Resources
12 incurred under this section. Any money in the fund available
13 for investment shall be invested by the state investment officer
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act. Investment earnings shall be credited
16 to the fund.

17 (5) If the streamflow depletions caused by withdrawals
18 from water wells in natural resources districts that have land area
19 subject to the provisions of an interstate water compact or decree
20 for which the State of Nebraska is an upstream state in any given
21 year are less than the permissible depletions for those districts,
22 and if, in accordance with the provisions of the interstate water
23 compact or decree involved, the streamflow depletions caused by
24 such withdrawals in those districts for any multiyear period that
25 is used to determine interstate water compact or decree compliance
26 do not exceed the permissible depletions for those districts
27 during that multiyear period, the department may credit contingency

1 deposits already paid to future contingency deposits or may refund
2 such amounts.

3 2. Correct the operative date section so that the section
4 added by this amendment becomes operative on its effective date
5 with the emergency clause.

6 3. Renumber the remaining sections and correct internal
7 references accordingly.